In the High Court of Punjab and Haryana, at Chandigarh.

R.S.A. No.3898 of 2007

Date of Decision: 7.12.2007

Hans Raj

…Appellant

Versus

State of Haryana and Others

…Respondents

CORAM: HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. A.P.Bhandari, Advocate
for the appellant.

RAJESH BINDAL, J.

The plaintiff is in second appeal before this Court against concurrent findings of fact recorded by both the Courts below, whereby the suit filed by him for permanent injunction restraining the defendants from interfering into his possession over the suit land and also for restraining them from planting trees therein, was dismissed.

The claim set up in the plaint was that the respondent-State took possession of some land for constructing road for which no compensation was paid. The metalled road has been laid on the land. On the both sides of this road, the Forest Department was in process of planting trees. The submission was that as the land in question was not acquired and no compensation has been paid, the respondents would not have any right to use the same and interfere in the ownership/possession of the land of the appellant/plaintiff.

The suit was contested by the respondents/defendants on the plea that Guhla-Kharkan road was constructed in the year 1968 and the width thereof was kept at 60 feet. In fact, the land for the proposed road was given by the villagers voluntarily to the respondents for their own benefit. Still further, the road was constructed about 34 years ago and no objection

whatsoever was raised by the appellant/plaintiff. The Forest Department was entrusted the job to plant trees on both sides of the road. At this stage, the appellant/plaintiff does not have any cause of action to approach the Court.

The factum that the land was gifted by the villagers for laying down the road for the benefit of the villagers way back in the year 1968 is not denied by the appellant/plaintiff. It is not only the appellant/plaintiff whose land is being used for the purpose of road, rather a number of other owners of the land falling in the road had gifted the same for the purpose. Since 1968 nobody has raised any objection. Even now it is only the appellant/plaintiff who has sought to raise the issue only in May 2002. The definite stand of the respondents is that it was 60 feet wide land which was taken for the purpose of laying of road and after leaving the pucca portion of the road the rest is being used for the purpose of plantation of trees. It was further stated by DW.1 Prem Singh, Forester that after the laying of road in 1979, the trees were planted on both sides thereof and after cutting, the same were being re-planted. It is not disputed that the area being used by the respondents is merely 60 feet in total i.e. 30 feet on each side of the metalled road. On this issue, the testimony of the respondents has gone uncontroverted. The factum of gift of land by the villagers way back in 1968 for laying of road was concealed by the appellant while filing the plaint.

Once there is no evidence on record to the effect that the respondents are trying to usurp the land much more than given by the villagers way back in 1968 for laying of road, which fact was found concealed by the appellant while filing the suit and further no other land-owner has ever raised any objection to this, I find that no illegality has been committed by the Courts below in dismissing the suit filed by the appellant/plaintiff. It seems that the appellant is becoming too greedy at this late stage by raising certain technical pleas.

Accordingly, I do not find any substantial question of law arises in the present appeal and the same is dismissed.

(Rajesh Bindal)
Judge

December 7, 2007
"DK"